

**UNITED STATES COURT OF APPEALS**  
**FOR THE TENTH CIRCUIT**

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**JAN 30 2002**

**PATRICK FISHER**  
Clerk

JIU DONG,

Petitioner,

v.

JOHN ASHCROFT, U.S. Attorney  
General; IMMIGRATION &  
NATURALIZATION SERVICE,

Respondents.

No. 01-9548  
(BIA No. A77 293 813)  
(Petition for Review)

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**ORDER AND JUDGMENT\***

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Before **HENRY, BRISCOE**, and **MURPHY**, Circuit Judges.

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After examining the petition for review and related materials, this panel has determined unanimously that oral argument would not materially assist the determination of this appeal. *See* Fed. R. App. P. 34(a)(2); 10th Cir. R. 34.1(G). The case is therefore ordered submitted without oral argument.

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\* This order and judgment is not binding precedent, except under the doctrines of law of the case, res judicata, and collateral estoppel. The court generally disfavors the citation of orders and judgments; nevertheless, an order and judgment may be cited under the terms and conditions of 10th Cir. R. 36.3.

Petitioner seeks review of the decision of the Board of Immigration Appeals dismissing his appeal of the immigration judge's order of deportation. In addition, petitioner seeks a stay of removal during the pendency of proceedings before this court. Our initial review of the materials filed by petitioner caused us to question our jurisdiction because the petition for review did not appear to be either timely filed under 8 U.S.C. § 1252(b)(1) or filed in the correct circuit under 8 U.S.C. § 1252(b)(2). *See Kennedy v. Lubar*, 273 F.3d 1293, 1301 (10th Cir. 2001) ("We have routinely recognized our ability to raise the question of appellate jurisdiction *sua sponte* . . ."). Accordingly, on December 26, 2001, we issued an order directing petitioner to show cause why the petition for review should not be dismissed for lack of jurisdiction. The time for response has since passed, and petitioner has not responded to the show cause order.

We, therefore, DISMISS the petition for review for lack of jurisdiction and DENY the motion for stay of removal as moot.

Entered for the Court,

PER CURIAM